

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

B.P.J. by her next friend and
mother, HEATHER JACKSON,

Plaintiff,

vs.

Civil Action No.
2:21-cv-00316

WEST VIRGINIA STATE BOARD OF
EDUCATION, HARRISON COUNTY BOARD
OF EDUCATION, WEST VIRGINIA
SECONDARY SCHOOL ACTIVITIES
COMMISSION, W. CLAYTON BURCH in
his official capacity as State
Superintendent, DORA STUTLER in
her official capacity as
Harrison County Superintendent,
and THE STATE OF WEST VIRGINIA,

Defendants.

and

LAINY ARMISTEAD,

Defendant-Intervenor.

VIRTUAL VIDEOCONFERENCE VIDEO-RECORDED
DEPOSITION OF MICHELE BLATT
Monday, February 14, 2022
Remotely Testifying from Charleston, West Virginia

Reported By: Hanna Kim, CLR, CSR No. 13083
Job No. 5079505

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Virtual videoconference video-recorded
deposition of MICHELE BLATT, taken pursuant to the
stipulations of counsel thereof, taken on behalf
of the Plaintiff, on Monday, February 14, 2022,
remotely testifying from Charleston, West
Virginia, before Hanna Kim, CLR, Certified
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21 Also Present:

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23 DAVE HALVORSON, Videographer

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WITNESS: MICHELE BLATT

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1 the rules.

2 Q. Okay. Very good.

3 And in terms of the 2.0 rule, I recollect
4 you spoke to the 2.0 rule.

5 Do you recollect that testimony? 15:06:54

6 A. Yes, that that was the only reference to
7 sports participation that's in a State Board
8 policy.

9 Q. All right.

10 And in terms of who actually has a -- 15:07:05

11 (Interruption in audio/video.)

12 THE COURT REPORTER: Excuse me. If you
13 would please start over. There was an interruption
14 in audio.

15 BY MS. GREEN: 15:07:17

16 Q. So in terms of who actually has authority
17 to enforce or waive the 2.0 rule, that would be
18 the State Board; wouldn't it?

19 A. No. That would be the authority of the --
20 enforcement of the 2.0 rule lies with the schools 15:07:35
21 and with the counties, mainly with the schools who
22 are reviewing the -- the records of the students.

23 Q. Okay. And very good point. Thank you for
24 clarifying, not SSAC.

25 SSAC doesn't enforce the State Board's 15:07:49

1 rules; correct?

2 MS. VEROFF: Objection as to counsel
3 testifying.

4 BY MS. GREEN:

5 Q. State -- State Board rule, your one rule; 15:07:59
6 is that true?

7 A. Elig- -- eligibility is determined at the
8 school level.

9 Q. All right.

10 And in terms of -- I think during the 15:08:07
11 pandemic, the State Board had waived or changed
12 compliance with the 2.0 rule, and that was done by
13 the State Board; wasn't it?

14 A. Yes.

15 Q. That's not SSAC doing that with your rule, 15:08:20
16 was it?

17 A. No.

18 Q. And I'm not sure whether I asked you or
19 not -- and maybe counsel will all object and tell
20 me I did. 15:08:38

21 But in terms of any sorts of
22 communications Bernie Dolan had with the
23 legislature or didn't have, any sort of e-mails
24 Bernie Dolan sent, any sort of communication, you
25 would defer to Mr. Dolan to speak for himself, 15:08:50

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1 would you not?

2 A. Yes.

3 Q. Thank you. Appreciate it.

4 A. Thank you.

5 MS. GREEN: No further questions at this 15:08:58
6 time. Thank you, all.

7 MR. TRYON: Ms. Blatt, my name the David
8 Tryon. I don't see my video coming up yet.
9 But anyways, my name is David Tryon, on behalf of
10 the State of West Virginia. Thank you very much 15:09:12
11 for your time today. We have no questions. Thank
12 you.

13 THE WITNESS: Thank you.

14 MS. GREEN: Good afternoon, Ms. Blatt. My
15 name is Susan Deniker. I represent the Harrison 15:09:27
16 County Board of Education and Superintendent
17 Stutler. Thank you for your time today. I do not
18 have any questions.

19 THE WITNESS: Thank you.

20 MS. MORGAN: So I have a few clarifying 15:09:37
21 questions that I would like to ask Ms. Blatt.

22 EXAMINATION

23 BY MS. MORGAN:

24 Q. You were asked about the 2.0 rule, both by
25 plaintiff's counsel as well as counsel for SSAC. 15:09:48

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1 And just want to clarify.

2 That is a -- a rule that was promulgated
3 by the West Virginia Board of Education; correct?

4 A. Yes.

5 Q. And it was -- it is to be implemented, 15:10:01
6 enforced by who?

7 A. By this -- membership schools.

8 Q. Is that similar to what will happen in the
9 future if a rule is promulgated by the Board of
10 Education? 15:10:19

11 A. Yes.

12 MS. VEROFF: Objection as to form.

13 BY MS. MORGAN:

14 Q. Has the State Board of Education ever
15 discussed 3293 at a meeting -- discussed House 15:10:38
16 Bill, that it was codified, 3293, at a board
17 meeting?

18 A. No, they have not.

19 MS. VEROFF: Objection. Asked and
20 answered. 15:10:51

21 BY MS. MORGAN:

22 Q. Have they taken any vote or action?

23 A. No, they have not.

24 Q. Has the department received any complaints
25 about -- 15:11:07